

Message Text

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ORIGIN EB-11

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FM SECSTATE WASHDC
TO AMEMBASSY LIMA

C O N F I D E N T I A L STATE 182087

E.O. 11652: GDS
TAGS: ETRN, PE
SUBJECT: CIVAIR - RELATIONS WITH PERU
REF : LIMA 6324, 6626; STATE

1. THIS TELEGRAM ATTEMPTS ANALYZE U.S.-PERU AIR TRANSPORT
RELATIONS AND OPTIONS AVAILABLE. EMBASSY COMMENTS
REQUESTED.

2. BEST INFORMATION AVAILABLE IS THAT DESPITE PROVISIONS
BILATERAL AGREEMENT, GOP IS DETERMINED ENFORCE ITS
POSITION AS FOLLOWS:

A. RIGHT TO DECIDE BRANIFF FREQUENCIES AND SCHEDULES
UNILATERALLY.

B. PAYMENT OF FIFTH FREEDOM TAX ON DIFFERENCE BETWEEN
BRANIFF AND AEROPERU'S FREQUENCY LEVELS.

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C. ADDITIONAL RIGHTS FOR PERU IN U.S. AT NEW YORK.

3. IT IS ASSERTED, BUT NOT ASSURED, THAT GOP WILL CONTINUE ALLOW BRANIFF OPERATE JUNE 1974 FREQUENCY LEVELS. IT SEEMS CLEAR, HOWEVER, THAT GOP WILL NOT ALLOW ADDITIONAL BRANIFF FREQUENCIES AT ANY PRICE. WHILE THIS PRESENTS BRANIFF WITH PROBLEMS, PARTICULARLY IN TERMS BRAZIL SERVICES, IT IS A SITUATION WITH WHICH USG AND BRANIFF PREPARED TO LIVE.

4. GRANT OF NEW YORK IS FEASIBLE, AND SOME WAY MIGHT BE FOUND, AT LEAST IN SHORT TERM, TO DEAL WITH GOP INSISTENCE THAT IT MAY DECIDE BRANIFF FREQUENCY AND SCHEDULES UNILATERALLY; USG COULD NOT UNDER ANY CIRCUMSTANCES SANCTION PAYMENT OF FIFTH FREEDOM TAX OR OTHER ROYALTY TYPE PAYMENT. IN FACT, SITUATION COULD DEVELOP IN WHICH CAB MIGHT HAVE TO INSTRUCT BRANIFF NOT TO PAY TAX. BRANIFF, OF COURSE, DOES NOT WISH PAY TAX, BUT HAVING

ALREADY CONCEDED PRINCIPLE BY PAYING ON SOME FREQUENCIES, IT MAY BELIEVE ISSUE IS SIMPLY WHETHER PAYMENTS ARE COMMERCIALLY BETTER THAN OTHER ALTERNATIVES. THESE OTHER ALTERNATIVES APPEAR BE:

A. REFRAIN FROM CARRYING FIFTH FREEDOM TRAFFIC WHICH WOULD BE SUBJECT TO TAX. BRANIFF FIRMLY OPPOSED, BUT HAS NOT PROVIDED ANALYSIS TO SHOW IMPACT ON ITS LA SYSTEM.

B. BRANIFF OFFER OF ASSISTANCE OTHER THAN TAX, SUCH AS TECHNICAL ASSISTANCE, MAINTENANCE, GROUND HANDLING IN U.S., ETC. ALTHOUGH BRANIFF APPARENTLY HAS MADE AND WILL CONTINUE MAKE SUCH OFFERS TO AEROPERU, ACCEPTANCE OF THIS IN LIEU OF TAX SEEMS UNLIKELY.

5. IN TERMS WHAT U.S. MIGHT OFFER TO AVOID TAX, WE HAVE FOLLOWING POSSIBLE BAIT:

A. UNRESTRICTED AEROPERU FREQUENCIES.

B. BRANIFF OFFER OF TECHNICAL ASSISTANCE.

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C. WILLINGNESS TO CONSULT ON INCREASED MARKET OPPORTUNITIES TO BALANCE BENEFITS TO FLAG CARRIER.

6. DECISION ON BEST TACTICS TO FOLLOW DEPENDS ON JUDGMENT WHETHER GOP DETERMINED IMPOSE TAX REGARDLESS ANY U.S. ALTERNATIVE OFFER. BRANIFF BELIEVES GOP IS NOW INSISTING ON EARLY CONSULTATIONS IN ORDER GET THIS TECHNICALITY OUT OF WAY BEFORE ISSUING DECREE REQUIRING

INCREASED TAX PAYMENTS. IF THIS IS CORRECT, IT WOULD APPEAR BE IN OUR INTEREST TO AGREE TO CONSULTATIONS BUT DEFER THEM AS LONG AS POSSIBLE, IN ORDER DELAY DECREE. ON OTHER HAND, IF GOP IS NOW AGREEING TO CONSULTATION ONLY IN RESPONSE TO U.S. REQUEST FOR TALKS, IT MAY DECIDE ISSUE DECREE VERY SOON IN ORDER PUT U.S. ON DEFENSIVE IN SUBSEQUENT CONSULTATIONS. ON BALANCE, IT WOULD SEEM DESIRABLE INFORM GOP OF A SPECIFIC DATE, AS FAR AWAY AS WE DARE PROPOSE, ON WHICH U.S. DELEGATION ABLE CONSULT IN LIMA AND EXPRESS VIEW THAT STATUS QUO SHOULD PREVAIL UNTIL THAT TIME.

7. BRANIFF HAS PRESSED US TO USE NON-AVIATION LEVERAGE TO ACHIEVE AN ACCEPTABLE AVIATION SOLUTION. WHILE DEPT DOES NOT OBJECT IN PRINCIPLE, WE DO NOT SEE ANY NON-AVIATION LEVERAGE WHICH CAN EFFECTIVELY BE USED IN THE MATTER. BRANIFF HAS ALSO SUGGESTED VISIT OF A HIGH LEVEL U.S. EMISSARY TO LIMA, BUT WE QUESTION UTILITY OF THIS. HOWEVER, HIGH LEVEL SUPPORT BEFORE, DURING OR AFTER TALKS MAY BE BOTH DESIRABLE AND NECESSARY. IN VIEW OF AEROPERU'S PLANS DESCRIBED LIMA 6867, WE SEE AN ADVANTAGE IN NOT SCHEDULING CONSULTATIONS UNTIL AEROPERU'S SERVICE TO MIAMI IS WELL UNDERWAY.

8. IN VIEW OTHER COMMITMENTS, AVAILABLE DATES FOR CONSULTATIONS LIMA WOULD PROBABLY BE EARLY OCTOBER OR NOVEMBER. KISSINGER

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